

THE ESTATE OF KENNETH D. STAHL

IBLA 81-589

Decided July 28, 1981

Appeal from a decision of the Alaska State Office, Bureau of Land Management, declaring the Helen Marie placer mining claim abandoned and void. AA-13574.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2, in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

APPEARANCES: Helen M. Stahl, on behalf of the estate of Kenneth M. Stahl.

OPINION BY CHIEF ADMINISTRATIVE JUDGE PARRETTE

Helen M. Stahl has appealed the decision of the Alaska State Office, Bureau of Land Management (BLM), declaring mining claim AA-13574 abandoned and void for failure to file timely evidence of assessment work in calendar year 1980.

The Helen Marie placer mining claim was located on June 18, 1977. The location notice was filed with BLM on July 26, 1977, as required by 43 CFR 3833.1-2(b).

In her statement of reasons, appellant explains that due to the death of her husband and the probate of the estate, evidence of assessment work was not filed with BLM. Appellant does allege, however, that

an extensive labor and assessment document was filed in Seward, Alaska, in January 1981.

[1] Section 314(a) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744(a) (1976), requires the owner of an unpatented mining claim located after October 21, 1976, to file evidence of assessment work for the claim with BLM prior to December 31 of each year following the calendar year in which the claims were located. The corresponding Departmental regulation, 43 CFR 3833.2-1(c), reads:

(c) The owner of an unpatented mining claim located on Federal lands * * * after October 21, 1976, shall, on or before December 30 of each calendar year following the calendar year in which such claim was located, file in the proper BLM office evidence of annual assessment work performed during the previous assessment year or a notice of intention to hold the mining claim

Failure to so file is considered conclusively to constitute abandonment of a claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4.

We appreciate the problems which face appellant. However, these factors do not excuse her from compliance with the statutory requirements. The Board has no authority to excuse lack of compliance. Doris McFall, 55 IBLA 110 (1981); OMCO, Inc., 55 IBLA 77 (1981).

The labor and assessment document that appellant filed in Seward, Alaska, in January 1981 is not sufficient. As previously indicated, in order to comply with the statutory requirements, appellant must timely file with BLM.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Bernard V. Parrette
Chief Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

